N.A.S.A.,

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE MARLIN KNIGHT,

Plaintiff,

vs. CIV-S-04-2054-MCE/GGH

Defendant. <u>ORDER</u>

Plaintiff has filed an amended "motion to compel [discovery]" now set to be heard before the undersigned on June 9, 2005. However, upon review, the motion to compel is in fact a dispositive motion on the merits which should be heard by the district judge in this non-consent and non-pro se case.

Plaintiff, an attorney representing himself, filed a Freedom Of Information Act complaint on October 5, 2004. He has complained that NASA improperly redacted scientific documents related to the Mars Rover mission which he had requested. He disputes NASA's rationale for those redactions. The present motion to compel seeks an order finding that the redactions are unjustified.

| 1 | Given the unique aspects of a FOIA case, in essence a statutory discovery device |
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| 2 | for government documents, the motion to compel is in fact a motion for summary judgment. |
| 3 | That is, an order on the motion to compel would resolve the case. Under the Local Rules of this |
| 4 | District, in "ordinary" civil actions, the magistrate judge may hear only true "discovery" motions. |
| 5 | E.D. Cal. LR 72-302(c) (1). As set forth above, plaintiff's motion is in the nature of summary |
| 6 | judgment, not discovery. Therefore, the magistrate judge is not authorized to adjudicate the |
| 7 | motion. |
| 8 | Accordingly, IT IS ORDERED that plaintiff's amended motion for discovery, |
| 9 | filed May 2, 2005, is vacated from this court's calendar for June 9, 2005. Plaintiff shall re-notice |
| 10 | his motion for summary judgment before the assigned district judge. |
| 11 | DATED: May 20, 2005 |
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| 13 | /s/ Gregory G. Hollows |
| 14 | GREGORY G. HOLLOWS U. S. MAGISTRATE JUDGE |
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